REMARKS

Claims 1-19 have been rejected by the Examiner under 35 USC 102(b) as being anticipated by U.S. 5,406,503 to William, Jr., et al. In this rejection, the Examiner has stated that William, Jr., et al. discloses a phacoemulsification handpiece including a needle (28), a power supply (Fig. 2-4 and col. 3-4), and an ultrasonic transducer (30).

In response, the Applicants submit that anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of the claimed invention. RCA Corp. v. Applied Digital Data Systems, Inc. 221 USPQ 385 (Fed. Cir. 1984); In re Sun 31 USPQ 2d 1451 (CAFC 1993); Advanced Display Systems, Inc. v. Kent State University 54 USPQ 2d 1673 (CAFC 2000).

Further, the Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied reference. Ex Parte Levy 17 USPQ 2d 1461 (USPTO Board of Patent Appeals and Interferences 1990).

In addition, the Applicants submit that anticipation must meet strict standards and unless all of the same elements are found in exactly the same situation and united in the same way to form identical function in a single prior art reference, there is no anticipation. Tights, Inc. v. Acme-McCary Corporation, et al. 191 USPQ 305 (CAFC 1976).

With this criteria in mind, the Applicants will focus on independent claims 1 and 10 herein. Claim 1 includes a power supply for driving an ultrasonic transducer at a resonant frequency of the transducer and cutting tip and varying driving power to the

transducer in response to loading of the cutting tip by phase shifting voltage and current supply to the transducer. Claim 10 includes phase shift circuitry responsive to the frequency and amplitude commands for producing the driver signals, in order to control power output of the resonant output circuit through the bridge driver, by phase shifting the output voltage and output current.

It is clear that the William, Jr., et al. reference does not include any structure which functions in a manner at all similar to this structure of claim 1 for providing driving power to a transducer by phase shifting voltage and current supplied to the transducer, or for phase shifting the output voltage and output current, as in claim 10.

In contrast, William, Jr., et al. provides for a method for driving the transducer at a constant dominant frequency while automatically varying the voltage amplitude of the driving signal.

There is no mention whatsoever of controlling the current supplied to the transducer let alone driving the ultrasonic transducer on the basis of phase shifting the voltage and current supply to the transducer.

Inasmuch as this element is lacking in the teachings or suggestions of William, Jr., et al., there can be no anticipation on the basis of the accepted criteria for anticipation hereinabove set forth.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-19 under 35 USC 102(b) on the basis of the William, Jr., et al. reference.

Claims 1-19 have also been rejected by the Examiner under 35 USC 102(b) as being anticipated by U.S. 6,394,974 to Kadziauskas and Staggs. In this rejection, the Examiner states that Kadziauskas, et al. discloses a phacoemulsification system combining a handpiece, which is not shown, which inherently includes a cutting tip power supply as claimed and reciting figures 1-9 and column 6-10.

The Applicants submit that Kadziauskas, et al. teaches a control means for varying a power level provided to the handpiece in response to a determined voltage current phase relationship.

There is no structure which functions in a manner similar to that as presently claimed which provides for phase shifting voltage and current.

In contrast, Kadziauskas, et al. measures the voltage current phase shift, and on the basis of that varies, the power level provided to the handpiece. The phase of voltage and phase of current supplied to the handpiece are not varied.

That is, the voltage and current phase relationship in Kadziauskas, et al. is used as a parameter for determining the power supply to the transducer. In the case at hand, the power to the transducer is controlled by phase shifting the voltage and current.

Accordingly, the Applicants submit that the Kadziauskas, et al. reference does not supply each and every element of the claimed invention and accordingly a rejection under 35 USC 102(b) is not sustainable. And therefore the Applicants respectfully request the

Examiner to withdraw the rejection of claims 1-19 under 35 USC 102(b) on the basis of the Kadziauskas, et al. reference.

In view of the arguments hereinabove set forth, it is submitted that each of the claims now in the Application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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